IN THE UNITED STATES DISTRICT COURT FOR

THE WESTERN DISTRICT OF OKLAHOMA

MAR 1 2 2010

| TONY VENTRIS, | ROBERT D. DENNIS, CLERK U.S. DIST, COURT, WESTERN DIST. OF OKL |
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| Plaintiff, | BY RUL DEPUTY |
| vs. |) No. CIV-09-715-W |
| MICHAEL J. ASTRUE, Commissioner of Social Security, |)) |
| Defendant. | , |

ORDER

On February 19, 2010, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation in this matter and recommended that the decision of the defendant, Michael J. Astrue, Commissioner of Social Security ("Commissioner"), to deny the Application for Disability Insurance Benefits filed by plaintiff Tony Ventris be reversed and that the matter be remanded for further administrative proceedings. The parties were advised of their right to object to the Report and Recommendation, but no objections have been filed within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Argo's suggested disposition of this matter. The Commissioner's decision in this case is neither supported by substantial evidence nor based upon correct legal standards.

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation [Doc. 17] issued on February 19, 2010;
- (2) REVERSES the Commissioner's decision to deny Ventris' Application for Disability Insurance Benefits;

(3) REMANDS this matter to the Commissioner pursuant to sentence four of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for further proceedings before an administrative law judge ("ALJ");

(4) DIRECTS the ALJ upon remand (a) to properly evaluate the opinion of treating physician John Williams, M.D., in accordance with the treating physician rule, e.g., Langley v. Barnhart, 373 F.3d 1116 (10th Cir. 2004); Watkins v. Barnhart, 350 F.3d 1297 (10th Cir. 2003), (b) to clarify which medical-vocational guideline ("grid") is applicable, see 20 C.F.R. Part 404, Subpart P, Appendix 2, if it is determined upon remand that reliance on the grids is appropriate in this case at step 5 of the five-step sequential evaluation process, and (c) to proceed in accordance with Magistrate Judge Argo's Report and Recommendation; and

(5) ORDERS that judgment pursuant to this Order issue forthwith ENTERED this 13dday of March, 2010.

LEE R. WEST ' UNITED STATES DISTRICT JUDGE

¹Because any administrative proceedings may affect Ventris' proposition that the administrative law judge failed to give specific, legitimate reasons for discounting Ventris' subjective complaints of pain, the Court DECLINES to consider such proposition.